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Remarks:

Regarding the rejection of claims 1-8, 10-14 under 35 USC 102(b) in view of GB 1247189 to Oneto:

The applicant traverses the Examiner's rejection of the claims based on the Oneto reference.

With regard to the Oneto reference, the applicant contends that this prior art reference is *prima facie* distinguishable over the applicant's presently claimed invention. The applicant's claims are drawn to hard surface treatment compositions, the Oneto compositions are not but rather are drawn to hair shampoo compositions. The applicant enters amendments to the claims which are believed to patentably distinguish over the Oneto disclosure. The applicant points out that Oneto fails to disclose compositions which necessarily include both comprising at least one dialkyl quaternary ammonium compound and an alkylbenzyl quaternary ammonium compound wherein at least one cationic surfactant having germicidal properties. Such would not be obvious over the Oneto reference as said reference does not disclose or discuss hard surface cleaning and/or disinfecting compositions which, in addition to cleaning, provide a mitigating benefit so to be of reduced irritation potential, nor, discloses or discusses compositions which advantageously provide a significant germicidal benefit to treated hard surfaces. The attention of the Examiner is respectfully directed to applicant's claims 12 – 14 which clearly delineate a specific germicidal benefit provided by preferred embodiments of applicant's inventive compositions.

Regarding the rejection of claims 1-4, 6-8 and 10-14 under 35 USC 102(b) in view of US 4348292 to Ginn:

The applicant traverses the Examiner's rejection of the claims based on the reference to Ginn..

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Ginn discloses dual-layer concentrate compositions which are immiscible in one another, but upon dilution with a greatly larger quantity of water, form a stable solution or dispersion following this dilution. Ginn's compositions are characterized in that the active surfactant concentrate portion of Ginn's system will contain "...less than 10%, usually 4 to 5% of water, and, in other cases, depending upon the nature of the ingredients employed, will contain no added water." (Ginn, col. 2, lines 21 – 25). Thus, it is quite clear from the foregoing that Ginn's compositions will have a surfactant laden immiscible phase which is nearly or essentially anhydrous. The attention of the Examiner is also directed to Ginn's examples I, II, III, IV and V each of which demonstrate Ginn's compositions. As can be seen from a review of the foregoing, Ginn's example compositions I, II and IV include no water in their surfactant laden phase. In Ginn's example III only 4.5% water is present in his surfactant laden phase, while in Ginn's example V only 7.14%wt. water is present in his surfactant laden phase.

The applicant's presently amended claims distinguish over the Ginn reference in that the volume ratio division of applicant's upper aqueous phase from the lower aqueous phase is in the ratio of 20:80 to 80:20 vol%/vol% respectively, and in newly presented claim 15 is in a lower ratio. By inspection, in applicant's preferred embodiments as illustrated in the Examples, the total amount of surfactants present in applicant's upper aqueous phase is less than the at least 90% surfactant content required of Ginn's surfactant laden and nearly or essentially anhydrous layer.

Additionally the applicant points out that Ginn fails to teach or suggest any germicidal properties or activities provided by his compositions. The attention of the Examiner is respectfully directed to applicant's claims 12 – 14 which clearly delineate a specific germicidal benefit provided by preferred embodiments of applicant's inventive compositions.

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Regarding the rejection of claims 1-8, and 10-14 under 35 USC 102(b) in view of WO 00/24852 to Winkler:

The applicant traverses the Examiner's rejection of the claims in view of WO 00/24852 to Endlein et al. (The undersigned notes that the Examiner's identification of "Winkler" with respect to this document is somewhat erroneous; the aforesaid is the German patent attorney and not a coinventor.) The applicant notes that WO 00/24852 is equivalent to US 6720300 B1 issued to Endlein, et al and as the latter document is wholly in the English-language, and for the sake of mutual convenience the applicant's responsive comments will be based on US 6720300 B1, rather than the equivalent German-language WO 00/24852 text. As the disclosure of these documents is the same, further proceedings based on the US 6720300 B1 will be more convenient.

Turning to the Endlein reference, by close inspection thereof it is clear that the prior art reference fails to anticipate, or for that matter to suggest, the applicant's presently claimed invention. Endlein provides an acidic composition which separates into dual phases which may include 0.5 – 6%wt. of one or more surfactants, an electrolyte in an amount of at least 0.5%wt. and an acid, present in an amount of 0.5 – 15%wt, preferably 7 – 10%wt., (Endlein, col. 1, lines 35 – 62). Preferred acids are selected from "... the group consisting of phosphoric acid, amidosulphonic acid and mixtures thereof." (Endlein, col 1, lines 64 – 67), although Endlein later notes that other acids including citric acid may also be used (Endlein, col 4, lines 18 – 23). With respect to surfactants, while Endlein notes quaternary surfactants, amines, amine oxides, betaines, sulphobetaines and mixtures thereof (Endlein, col. 2, lines 2-3), as well as certain anionic surfactants (xylol and cumol sulphonic acids and salts thereof) (Endlein, col. 2, lines 25 – 26) Endlein fails to denote (a) the necessary inclusion of both at least one dialkyl quaternary ammonium compound and an alkylbenzyl quaternary ammonium compound, (b) the use of a surfactant, particularly one or more amphoteric surfactants, e.g., especially those presently recited in claim 5 as mitigators or (c) that his compositions may provide a useful germicidal effect as is presently recited in claims 12 – 14. Indeed, with respect to (a) while Endlein does include certain quaternary ammonium compounds

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in his examples, none of the example compositions illustrate both at least one dialkyl quaternary ammonium compound conjointly with an alkylbenzyl quaternary ammonium compound. With respect to (b), alkylampho(mono-, di-) acetates and alkylampho(mono-, di-) propionates are not disclosed whatsoever in Endlein. With regard to (c), Endlein is wholly silent as to any germicidal efficacy of his compositions.

It is believed that the amended claims presented in this paper patentably distinguish over the Endlein reference.

Regarding the rejection of claims 1-14 under 35 USC 103(a) in view of US 6440924 to Jeschke:

The applicant traverses the Examiner's rejection of the aforesaid claims based on the Jeschke reference.

Jeschke discloses aqueous liquid multiphase surfactant containing cleaning compositions having at least two continuous phases which can be temporarily converted into an emulsion by shaking. Notwithstanding the Examiner's position that the Jeschke reference suggests the applicant's invention, the applicant strongly disagrees.

As with the prior reference to Endlein, the Jeschke reference also fails to denote (a) the necessary inclusion of both at least one dialkyl quaternary ammonium compound and an alkylbenzyl quaternary ammonium compound; (b) the use of a surfactant, particularly one or more amphoteric surfactants, e.g., especially those presently recited in claim 5 as mitigators; or, (c) that his compositions may provide a useful germicidal effect as is presently recited in claims 12 – 14. With respect to (a) while Jeschke does recite various quaternary ammonium compounds as having potential utility (Jeschke, col. 5, lines 42 – 51), none of the example compositions include *any* quaternary ammonium compounds. Jeschke also fails to teach the requirement that both at least one dialkyl quaternary ammonium compound conjointly with an alkylbenzyl quaternary ammonium compound

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should most desirably be present. With respect to (b), alkylampho(mono-, di-) acetates and alkylampho(mono-, di-) propionates are not disclosed whatsoever in Jeschke, nor does Jeschke teach or suggest the identification of or the utility of surfactants which are to be included in order to provide a mitigating effect. With regard to (c), Jeschke is also stonily silent as to any germicidal efficacy of his compositions.

Accordingly in view of the amendments to the claims presented herein, and in view of the foregoing remarks, reconsideration of the propriety of the outstanding grounds of rejection and withdrawal of the prior art references from further consideration are solicited.

Should the Examiner have any question concerning this response, or believe that telephonic communication would meaningfully advance the present application to allowability, the Examiner is invited to contact the undersigned at their convenience.

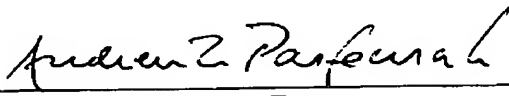
Petition for a Two-Month Extension of Time

The applicants respectfully petition for a one-month extension of time in order to permit for the timely entry of this paper. The Commissioner is hereby authorized to charge the fee to Deposit Account No. 14-1263 with respect to this Petition.

Conditional Authorization for Fees

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Respectfully Submitted;


Andrew N. Parfomak, Esq.
Reg.No. 32,431


Date:

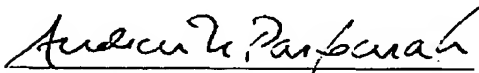
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